



SIERRA CLUB OF HAWAI'I

MĀLAMA I KA HONUA. *Cherish the Earth.*

HOUSE COMMITTEE ON WATER, LAND, AND HAWAIIAN AFFAIRS

February 8, 2019 8:30 AM Room 325

In **OPPOSITION** to HB1326: Relating to Water Rights

LATE

Aloha Chair Yamane, Vice Chair Todd, and members of the WLH committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i unequivocally opposes HB1326 because it is a wholesale giveaway of our stream waters for private profit.

While we oppose excessive stream diversions, we support local agriculture and renewable energy. We find there is no need to pit stream protection against the local production of food and energy. Our watersheds are abundant. There is more than enough water for everyone to share and benefit -- more than enough water to ensure our streams are healthy, energy needs are met, and diversified agriculture prospers. The only reason we are here today in this setting is because corporate greed has once again pushed us all into an "all or nothing" scenario.

We strongly urge you to hold this bill because:

1) It represents a \$62 million corporate bailout for Alexander & Baldwin Co.

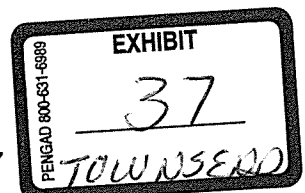
In the agreement of sale for the 40,000 acres of land in central Maui and parts of east Maui, A&B promises to pay \$62 million to Mahi Pono if a minimum of 30 million gallons of water a day is not delivered to Mahi Pono. Passing this bill would save A&B from paying Mahi Pono that money.

2) It would reward abuse and incompetence

Both A&B (now Mahi Pono) and Kaua'i Island Utility Cooperative have long taken more than their fair share of the streams they divert. They both have a horrible history of draining streams dry for their profits. And both entities have equally failed to follow the minimum expectations of the law to complete an environmental impact statement. Despite years of unlawful holdover permits -- and three years of legal holdovers granted by this Legislature -- we see zero progress on this basic, minimum expectation. Passing this bill rewards this chronic corporate abuse.

Aiding and abetting this bad behavior is the Board of Land and Natural Resources. For decades BLNR has repeatedly granted temporary permits for stream diversions by KIUC and

TRIAL EXHIBIT AB-97



A&B without knowing how much water is in the stream, how much is diverted, how much is needed to preserve stream life, and how much is needed for diverters' intended purposes. It is outrageous that BLNR does not require this kind of information from A&B and KIUC. It is unconscionable that BLNR authorized the diversions anyway. Passing this bill rewards BLNR for failing to do its job.

3) It would further harm streams and those who rely on them

The harm suffered by excessive stream diversion is real and current. Wai'ale'ale stream often runs dry because KIUC insists on diverting 100% of the streamflow to produce 1.5% of the island's electricity using archaic hydro-plants. In East Maui, despite public promises and official orders to restore taro-feeding streams, A&B's diversions remain in many places. Concrete, rebar, and PVC piping litter many streams from the old, neglected diversions in East Maui and East Kaua'i.

As a result of these diversions, cultural practices like fishing, and recreational activities like hiking are undermined. Downstream, taro lo'i are fallow and invasive species abound. More importantly, stream diversions interrupt the fundamental functioning of our hydrological cycle and aquatic life cycles. Underground aquifers are not replenished, and native marine life cannot reproduce because too much water is being diverted from the tops of our streams.

It is never appropriate to allow more than fifty percent of the water flowing in a stream to be taken from it – particularly when that use is in a different ahupua'a. Diversions must be limited in a manner that ensures that native species and their larvae can migrate upstream and downstream without interference. The holdover approach to stream diversions does not ensure these limitations, and so it should not be extended in any way.

HB1326 should not be passed because it perpetuates decades of abuse and neglect of our streams -- abuse by corporate greed taking more than their fair share of the people's water and neglect by government regulators responsible for the stewardship of our natural resources.

Thank you very much for this opportunity to provide testimony to hold HB1326.

Mahalo,

Marti Townsend,
Chapter Director

Civil No. 19-1-0019-01 (JPC)

Defendant A&B/EMI's Exhibit AB-97

FOR IDENTIFICATION _____

RECEIVED IN EVIDENCE _____

CLERK _____